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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,608	09/25/2003	Koji Ichikawa	06-49-0914P	5671
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EXAMINER AVELLINO, JOSEPH E				
ART UNIT 2446		PAPER NUMBER		
NOTIFICATION DATE 02/13/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/669,608

Applicant(s)

ICHIKAWA, KOJI

Examiner

Joseph E. Avellino

Art Unit

2446

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-4 and 6-22 are pending in this examination; claims 1, 6, and 10 independent.
2. The Office withdraws the Finality of the previous Office Action.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, and 6-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spyglass Prism (Concepts and Applications: Spyglass Prism, 1997) (hereinafter Spyglass) in view of Fox et al. ("Reducing WWW Latency and Bandwidth Requirements by Real-Time Distillation"; Computer Networks and ISDN Systems; ACM; May, 1996) (hereinafter Fox) and further in view of Kitamura (US 2001/0034783) in view of Marmor (US 2002/0026475).

3. Referring to claim 1, Spyglass discloses an image-correction processing apparatus (i.e. proxy server application) in an image sending system that sends an image to a destination terminal via a network (page 2, Figure), comprising:

terminal information acquiring means for acquiring a destination terminal information about the destination terminal ("a user...may be asked to enter a services of conversion preferences that are stored in the User Database...the Device database contains content conversion characteristics for any set of devices that Spyglass Prism

may be asked to support" such as screen dimensions, resolution, colors supported, format, etc.) (page 4, 'Transaction Manager' section);

send-out image generating means for generating a send-out image by performing an image correcting process, which corresponds to a model of the destination terminal, based on the destination terminal information (i.e. based on the device type of the requesting terminal, specific content conversion characteristics are conducted on the image to create a modified image) (page 4, 'Transaction Manager' section; page 5, 'Content Converter and Cache' section: "Based on the request passed from the Transaction Manager, Spyglass Prism's Content Converter selects a set of conversion rules that define how Web content will be translated to provide optimal viewing on the requesting device...for example, an image conversion script...may convert images to GIF, reduce the color depth, reformat the image for a 240x480 pixel display").

Spyglass further discloses the send-out image generating means includes storing an image-correction parameter (i.e. user database to track user preferences as well as design custom conversion routines) (p. 2-3: 'introduction' and 'Spyglass prism product overview'); means for setting image correction parameter according to destination terminal information (i.e. a script for a handheld PDA may convert images to GIF, reduce color depth, reformat the image, etc.) (p. 5: 'Content converter and Cache'); means for converting a number of pixels constituting an image to be appropriate for a display screen size of a destination terminal (i.e. reformat the image for a 240x480 pixel display) (p. 5: 'Content converter and Cache'); means for correcting the send-out image

based on a first correction process (i.e. conversion rules convert the image to conform with the display capabilities of the device) (p. 5: 'Content converter and Cache'); and content converter rules for reducing color depth, JPEG-GIF conversion, size reduction, dithering, etc. all which are tailorable to the user and the user's display device (p. 5: 'Content converter and Cache').

Spyglass does not explicitly state the use of a first class of devices pertaining to a first correction process and a second class of devices pertaining to a second correction process. In analogous art, Fox discloses another image correction process for devices which discloses a chart in which various classes of devices and their display capabilities are shown (page 5). It would have been obvious to one of ordinary skill in the art to combine the teaching of Fox with Spyglass in order to utilize the particular chart used in Fox with the device database disclosed in Spyglass, thereby providing enough data for the system to correct an image in order to conform with the operating and display capabilities of the various devices.

Fox-Spyglass do not expressly disclose the image sending terminal is different from the destination terminal, wherein the image sending terminal sends an image along with information designating the destination terminal. In analogous art, Kitamura discloses a sending terminal (i.e. transmitting side) which sends an image (i.e. Christmas picture, message, and montage) along with information designating the destination terminal (i.e. mail addresses) (Figure 1B, ref. B) to a server 3 which then sends the card to a destination terminal (i.e. receiving side) (Fig. 1B). It would have been obvious to one of ordinary skill in the art to combine the teaching of Kitamura with

Fox-Spyglass in order to allow the image conversion techniques of Fox-Spyglass to be applied to the Christmas card being sent in Kitamura, in order to allow the card to be displayed properly based on the type of receiving device of the destination terminal, thereby allowing the system of Kitamura to be used with a plurality of differing devices, all with varying capabilities.

Fox-Spyglass-Kitamura does not explicitly disclose that the converter queries the receiver for destination terminal information, rather the destination terminal information is stored in the gateway and no querying is done. In analogous art, Marmor discloses another alternative to storing the client's configuration in the converter is to query the destination terminal for the client's capabilities (§ 28, 103). It would have been obvious to one of ordinary skill in the art to combine the teaching of Marmor with Fox-Spyglass-Kitamura to query the client destination terminal instead of storing the various configuration capabilities in the server of Spyglass in order to compensate for users whose devices change often (i.e. accessing an account from both a home PC and a PDA, which have differing capabilities), resulting in reduced memory storage requirements for the server as well as increased flexibility for supporting different devices.

4. Referring to claim 2, Spyglass discloses the send-out image generating means includes:

first image-correction processing means for performing an image correcting process according to each image for a pre-sending image, and a second-image

correction processing means for performing an image correcting process which is respectively appropriate for each model of the destination terminal after the image correcting process performed by the first image-correction processing means (i.e. the example shows a script which reduces the color depth, which is an image correcting process according to the image, and then reformat the image for a 240,480 pixel display, which is a correcting process appropriate for the model of the destination terminal) (page 5, 'Content Converter and Cache' section, second paragraph).

5. Referring to claim 3, Spyglass discloses an image-correction parameter storing means (i.e. Device Database) for storing image-correction parameters (i.e. device types) of each model of the destination terminal (i.e. "reformat the image for a 240x480 pixel display") (page 4, 'Transaction Manager' section; page 5, 'Content Converter and Cache' section); and

image-correction parameter setting means for setting an image-correction parameter used for the image correcting process (i.e. device database contains content conversion characteristics for any set of devices...) (page 4, 'Transaction Manager' section).

6. Referring to claim 4, Spyglass discloses the terminal information acquiring means acquires the destination terminal information from the destination terminal (i.e. user is asked to enter a series of conversion preferences and the Device Database information) (page 4, 'Transaction Manager' section); and

the image-correction parameter setting means selects an image-correction parameter corresponding to a destination terminal information (i.e. Device database contains content conversion characteristics for any set of devices) (page 4, 'Transaction Manager' section).

7. Claims 6-10 are rejected for similar reasons as stated above.
8. Referring to claim 11, Spyglass-Fox discloses that the first class of computers is a PC (Fox: page 5, note 'Typical notebook/desktop PC').
9. Referring to claim 12, Spyglass-Fox discloses the invention as described above. Spyglass-Fox does not explicitly disclose the use of a cellular phone, rather just discloses the use of PDA's and notebook/desktop PC's, however the ability for cellular phones to display images is well known and a cellular network has a lower bandwidth than a typical wired network. By this rationale, "Official Notice" is taken that both the concepts and advantages of providing for display capabilities of cellular phones is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to realize the benefits of incorporating cellular phones in the device database in order to increase the user's ability to access images over a cellular phone and a cellular network quickly and expeditiously.

10. Referring to claims 13 and 14, Spyglass-Fox do not explicitly disclose the use of if the device belongs to a particular third class of device (a cellular phone), convert the image to JPEG, however, as explained in connection with claim 12, the use of cellular phones is well known in the art, and Spyglass discloses conversion of an image to JPEG (p. 5: 'Content converter and Cache'), one of ordinary skill in the art would be able to configure the system to convert the image to JPEG when the device is a particular cellular phone which can only receive JPEG images.

11. Claims 15-22 are rejected for similar reasons as stated above.

Response to Arguments

12. Applicant's arguments filed August 4, 2008 have been fully considered and are persuasive. A new ground(s) of rejection are presented above.

13. Applicant's arguments with respect to the "Official Notice" have been considered but are not persuasive. Contrary to Applicant's belief, the Examiner is not relying upon "common knowledge in the art", rather, since Applicant has failed to seasonably traverse the Examiner's assertions, this failure to seasonably traverse these assertions have been taken as Applicant's Admitted Prior Art. Applicant is invited to review MPEP 2144.03: which states:

"If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement

is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate."

14. Applicant has had an opportunity to traverse these assertions and has failed to do so. Under MPEP 2144.03, this has been taken as Admitted Prior Art for the duration of prosecution.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Applicant has failed to seasonably challenge the Examiner's assertions of well known subject matter in the previous Office action(s) pursuant to the requirements set forth under MPEP §2144.03. A "seasonable challenge" is an explicit demand for evidence set forth by Applicant in the next response. Accordingly, the claim limitations the Examiner considered as "well known" in the first Office action are now established as admitted prior art of record for the course of the prosecution. See *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey C. Pwu can be reached on (571)272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph E. Avellino/
Primary Examiner, Art Unit 2446